

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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DIONNE LEE

Plaintiff

RICHARD K. BAWUAH and  
COWAN EQUIPMENT LEASING

Civil Action No. 07-cv-9917

**CERTIFICATION  
OF COUNSEL**

Defendants

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Jeffrey A. Segal, Esquire, an attorney duly admitted to practice law before the applicable Courts of the State of New York, hereby affirms the truth of the following, under the penalties of perjury:

1. I am a partner of Rawle & Henderson LLP, attorneys for the defendants, Richard K. Bawuah and Cowan Equipment Leasing, and as such I am fully familiar with the facts and circumstances herein.

2. This action arises out of a motor vehicle accident that occurred on the eastbound, Upper Level of the George Washington Bridge at approximately 12:40 a.m. on Monday, May 9, 2007.

3. The nature and extent of plaintiff's alleged injuries is in dispute.

4. By letter dated April 14, 2008 plaintiff's counsel identified Dr. Mitchell Zeren, M.D as an expert, but did not identify Dr. Zeren's specialty. Further, plaintiff's counsel provided Dr. Zeren's address and advised that he has been a treating physician since the onset of the injury and that Dr. Zeren would testify to Ms. Lee's injuries, her treatment, present condition and future prognoses (See Exhibit "A").

5. Thereafter, by letter dated May 6, 2008, plaintiff's counsel again identified Dr. Mitchell Zeren, M.D. as an expert in this matter. (See Exhibit "B").

6. However, plaintiff's counsel has not furnished any other expert disclosures with respect to Dr. Zeren as mandated by Fed. Rule 26a(2)(B)i-vi. (See Exhibit "B").

7. Further, Dr. Zeren has not issued a comprehensive narrative expert report. Instead, he has only issued an initial evaluation report (See Exhibit "C") and updated reports leading up to plaintiff's October 2007 cervical surgery. (See Exhibits "D", "E" and "F")

8. A review of Dr. Zeren's reports reveal that none of his opinions were rendered within a reasonable degree of medical probability. (See Exhibit "C", "D", "E" and "F").

9. Moreover, because there is no record of Dr. Zeren evaluating Lee after the October 31, 2007 cervical surgery, Dr. Zeren should also be barred from proffering a prognosis or opinion as to whether or not Lee's condition(s) are permanent in the aftermath of the cervical surgery.

10. Lastly, at the June 10, 2008 status conference before Your Honor, plaintiff's counsel represented to the Court that he did require any extensions of the discovery deadlines. Therefore, the deadline for the exchange of expert reports has elapsed without plaintiff furnishing updated reports by Dr. Zeren providing a more definitive statement regarding causation or providing a definitive prognosis as to what Lee's post surgical condition(s) are whether or not any such conditions are permanent.

11. Therefore, defendants herein request an Order Excluding or limiting the testimony of plaintiff's medical expert, Mitchell Zeren, D.C. or in the alternative limiting his testimony so that it does not address plaintiff's post surgical condition, including whether or not any such conditions are permanent.

RAWLE & HENDERSON LLP

By: 

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